



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FOO/154196

PRELIMINARY RECITALS

Pursuant to a petition filed December 16, 2013, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Washington County Department of Social Services in regard to FoodShare benefits (FS), a hearing was held on January 30, 2014, at West Bend, Wisconsin.

NOTE: On February 6, 2014, ALJ Ishii contacted the parties by phone to inquire about an insurance premium expense listed in Exhibit 2, pg. 7 for \$40.67. The Petitioner indicated that she believed it was for dental insurance. Mr. Benedum also indicated that the amount was for two health insurance premiums, one for \$33.67 and one for \$7.00.

The issue for determination is whether the Washington County Department of Social Services (the agency) correctly determined Petitioner's FoodShare allotment.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By: Ken Benedum, Economic Support Specialist
Washington County Department of Social Services
333 E. Washington Street
Suite 3100
West Bend, WI 53095

ADMINISTRATIVE LAW JUDGE:

Mayumi M. Ishii
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Washington County.
2. On December 9, 2013, the agency sent the Petitioner a notice that her FoodShare benefits would be decreased from \$176.00 per month to \$171.00 per month, effective January 1, 2014. (Exhibit 2, pg. 5)
3. Petitioner filed a request for fair hearing that was received by the Division of Hearings and Appeals on December 16, 2013. (Exhibit 1)
4. Effective January 1, 2014, Petitioner's SSDI payment went up from \$726.00 to \$737.00. (Exhibit 2, pg. 4)
5. Petitioner continued to receive state SSI in the amount of \$87.78 per month. Thus, her total income was $\$737.00 + \$87.78 = \$824.78$. (Exhibit 2, pgs. 3 and 7)
6. Petitioner paid rent in the amount of \$230.00 per month. (Exhibit 2, pg. 7)
7. Petitioner had medical bills, including the cost of Boost, of \$182.38 per month and she pays insurance premiums of \$40.67 per month. Thus, her total medical expenses are $\$182.38 + \$40.67 = \$223.05$. (Exhibit 2, pg. 7)
8. Petitioner's assistance group size is one. (Exhibit 2, pgs. 2 and 3)

DISCUSSION

To receive FoodShare benefits a household must have income below gross and net income limits though the gross income test does not apply where a household has a member over age 60. *7 Code of Federal Regulations (CFR), §273.9(b); FoodShare Wisconsin Handbook (FSH), § 1.1.4*. The agency must budget all income of the FS household, including all earned and unearned income. *7 CFR § 273.9(b); FoodShare Wisconsin Handbook (FSH), § 4.3.1*. The allotment calculation is based on prospectively budgeted monthly income using estimated amounts. *FSH, §4.1.1*.

Once a household passes the gross income test the following deductions are applied in determining the FoodShare allotment. (*FSH, at § 4.6*):

- (1) a standard deduction –

This is \$152 for a household of 1-3 people. *7 CFR § 273.9(d)(1)*:

- (2) an earned income deduction - which equals 20% of the household's total earned income, *7 CFR § 273.9(d)(2)*;
- (3) certain medical expenses – for medical expenses exceeding \$35 in a month for an elderly or disabled person, *7 CFR § 273.9(d)(3)*;
- (4) dependent care deduction for child care expenses, *7 CFR § 273.9(d)(4)*; and
- (5) shelter and utility expenses deduction the deduction is equal to the excess expense above 50% of net income remaining after other deductions. *7 CFR § 273.9(d)(5)*.

The heating standard utility allowance (HSUA) is \$450 per month.

There is a cap of \$478.00 on the shelter cost deduction, *unless* a household has an elderly, blind or disabled member.

FSH, §§ 4.6.7.1 and 8.1.3.

The term 'disabled' is a term with a definition as to the FoodShare program:

3.8.1.1 EBD Introduction

An elderly individual is a food unit member age 60 or older.

A disabled individual is a food unit member who receives disability or blindness benefits from any of these programs: [SSA](#), [MA](#), [SSI](#) or SSI related MA, Railroad Retirement Board ([RRB](#)).

FSH, §3.8.1.1.

It appears that the agency made a slight miscalculation of the Petitioner's medical expenses. Petitioner's medical expenses total: $\$181.38 + \$40.67 = \$223.05$. Her excess expense is $\$223.05 - \$35.00 = \$188.05$. For reasons not made clear in the record, the agency's calculation was \$7.00 short.

Applying the applicable deductions to Petitioner's income we have the following net income calculation, effective November 1, 2013:

Gross Income	\$824.78	Rent	\$230.00
No Earned Income Deduction		HSU	\$450.00
Standard Deduction	-\$152.00	50% Net income	-\$242.37
Medical Expenses exceeding \$35	-\$188.05		
No Dependent Care Expenses		Excess Shelter Expense	\$437.63
<hr/>		<hr/>	
Net Income	\$484.73		
Excess Shelter Expense	- \$437.63		
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Net Income	\$47.10		

Individuals, in a household of one, with a net income of \$47.10 qualify for a FoodShare allotment of \$174.00 per month. *FSH §8.1.2.*

CONCLUSIONS OF LAW

The agency did not correctly calculate Petitioner's FoodShare allotment.

THEREFORE, it is

ORDERED

That the agency issue to FoodShare benefits to the Petitioner in the amount of \$174.00 per month, effective January 1, 2014. The agency shall take all administrative steps necessary to complete this task within ten days of this decision.

REQUEST FOR A REHEARING

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found at your local library or courthouse.

APPEAL TO COURT

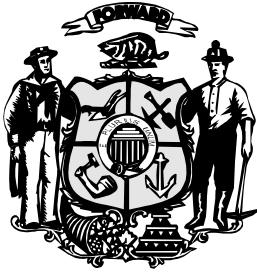
You may also appeal this decision to Circuit Court in the county where you live. Appeals must be served and filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

For purposes of appeal to circuit court, the Respondent in this matter is the Department of Health Services. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 1 West Wilson Street, Room 651, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Milwaukee,
Wisconsin, this 7th day of February, 2014.

\sMayumi M. Ishii
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on February 7, 2014.

Washington County Department of Social Services
Division of Health Care Access and Accountability